IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 3981 of 1991

Between:

A.Meerunnissabibi sahiba W/o Shaik Fakir Ahamad, 50 years

R/o Razole, East Godavari district

..... PETITIONER

AND

1.The District Judge, Rajahmundry, East Godavari district;

2.The Special Officer cum Prl. District Munsif, Amalapuram

3.Polisetti Ramamurthy S/o Venkatarathnam @ Rathnam(died) by LRs

Ravanam Mallayya street, Amalapuram

4.Polisetty Veera Venkata Satyanarayana S/o late Ramamurthy

R/o Vemagiri, Rajahmundry, East Godavari street;

5.Polisetty Venkatarathnam S/o late Ramamurthy

R/o Duddubvari Agraharam, Amalapuram, East Godavari dt.

6.Polisetty Veerabhadra Rao S/o late Ramamurthy,

6-1-527, Kairatabad, Hyderabad

7.Dasireddi Ananthalakshmi W/o Veeraraghavulu,

Pappulavaripalem, Kothapeta DMC, East Godavari dt.

8.Bobbili Ramatulasi W/o Sastyanarayana, R/o Dudduvari Agraharam

Amalapuram, East Godavari district.

9.Chikkala Amaravati W/o Nageswara Rao R/o Bheemanapalli

Amalapuram DMC, East Godavari district;

10.Polisetty Dhanalakshmi W/o Rammurthy, R/o Amalapuram

11.Adanalakshmi Tulasi W/o Suryanarayana

R/o Veeravallipalem, Amalapuram DMC, East Godavari dt.

(R.4 to R.11 are brought on record as LRs of deceased R.2 as

per court order in WPMP No.6664/2003 dated.24-6-2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the concerned records relating to the judgment dated 19-9-1990 in A.T.A.No.69/87 from the file of the District Judge's court, Rajahmundry, East Godavari district, by which the 1st respondent has reversed the decision in A.T.C.No.26 of 1986 on the file of the Special Officer cum Principal District Munsif, Amalapuram land quash the same by issuance of a writ, direction or order particularly one in the nature of Certiorari and order the eviction of the 3rd respondent herein.

For the Petitioner: MR.R.V.SUBBA RAO , Advocate

For the Respondents 1 & 2.: GP FOR REVENUE

For Respondent No.4 to 11 : Sri G V L N Murthy, Advocate

The Court Made the Following :

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THE HONOURABLE SRI JUSTICE B.PRAKASH RAO

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W.P.No.3981 of 1991

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ORDER:

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Heard both sides.

The petitioner, who is the land-lord, seeks to assail by way of writ to quash the orders passed by the learned District Judge, East Godavari at Rajahmundry, in Andhra Tenancy Appeal No. 69 of 1987 dated 19-09-1990, allowing the appeal at the instance of third respondent, who is tenant and reversing the orders by the Preliminary Authority in ATC No.26 of 1986 dated 9-4-1987, ordering the eviction as against the third respondent, for default committed for the years 1985-86.

The case of the petitioner in brief is that, she is the owner of the land in S.No.386/9 admeasuring 60 cents situate at Amalapuram Revenue village and third respondent is the tenant. However, having regard to the default committed for the years 1985-86 onwards, the tenant is liable to be evicted. Hence, she initiated the proceedings before the Preliminary Authority in ATC No.26/1986. The said Authority, after enquiry though rejected the alleged default for the earlier period, however, ordered eviction of the tenant-third respondent, on the ground that the tenant has committed default for the years 1985-86.

On appeal by the third respondent, the Appellate Authority, on reconsideration of entire evidence on record, especially by taking into consideration of the fact that third respondent sent demand draft bearing No.A/52-239323,dated 18-1-1986 for a sum of Rs.577.50, found that there was no default.

Having heard the counsel on either side, and also on perusing the record, it is seen that the finding given by the Appellate Authority is purely on facts. There is no dispute to the effect that third respondent obtained the said demand draft. However, it is contended on behalf of the petitioner, that there is no evidence to show that the said demand draft was sent and received by the petitioner.

Be that as it may, the fact remains that there is an attempt on the part of the petitioner that he sent the amount through demand draft, which has been accepted by the Appellate Authority itself, is a finding purely on the facts. Having regard to the same, it is not open for this court to exercise the powers under Article 226 of the Constitution of India. Absolutely, I do not find any merits in this writ petition.

Accordingly, the writ petition is dismissed. No costs.

24th JUNE 2004

BSS/HSD

Assistant REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The District Judge, Rajahmundry, East Godavari district;

2.The Special Officer cum Prl. District Munsif, Amalapuram, E.G.district

3.2CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT)

4.2CD copies

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